

## MINUTES OF DECEMBER 17, 2018

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 17, 2018, at 7:00 p.m. in the County Council Chambers, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman John Mills presiding. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills and Mr. Brent Workman. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Janelle Cornwell, Planning and Zoning Director, Mr. Jamie Whitehouse – Planning Manager, and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Mr. Mills.

Motion by Ms. Magee seconded by Mr. Callaway and carried unanimously to approve the revised agenda. Motion carried 5 – 0.

Motion by Mr. Callaway, seconded by Mr. Mears, and carried unanimously to approve the Minutes and Findings of Facts for October 15, 2018. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the case.

### **OLD BUSINESS**

**Case No. 12218 – Sam & Lyn Sloan** seek variances from the minimum lot width requirement and minimum lot area for existing and proposed lots (Sections 115-25, 115-194 and 115-211 of the Sussex County Zoning Code). The property is located on the northeast side of Pinewater Dr., approximately 700 ft. north of Multiflora Dr. in the Pinewater Farm Development. 911 Address: N/A. Zoning District: AR-1. Tax Parcels: 234-17.12-5.00, 234-17.12-5.01, and 234-17.12-5.02.

Mr. Whitehouse presented the case which was tabled at the Board's meeting on December 10, 2018.

Ms. Magee and Mr. Workman stated that they favor granting the Application.

Ms. Magee moved to approve Variance Application No. 12218 for the requested variances as the Applicant has met all the criteria for granting a variance as well as the provisions of §115-194 of Sussex County Code.

Motion by Ms. Magee, seconded by Mr. Callaway, and carried unanimously that the **variances be granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 12239 – Jason & Stacy Harshbarger** seek a special use exception to build a dwelling (stick built/modular) in a non-conforming mobile home park (Section 115-210 of the Sussex County Zoning Code). The property is located on the south side of S. Shore Dr. Ext., approximately 350 ft. southwest of Marina View Ct. 911 Address: 32 South Shore Dr., Bethany Beach. Zoning District: MR. Tax Parcels: 134-2.00-3.01 and 134-2.00-4.00.

Mr. Whitehouse presented the case which was tabled at the Board's meeting on December 10, 2018.

Mr. Callaway stated that he wanted more time to consider the Application.

Mr. Callaway moved, seconded by Mr. Workman, and carried unanimously to **table Case No. 12239 until January 7, 2019**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Mears – yea, Ms. Magee – yea, Mr. Mills – yea, and Mr. Callaway – yea.

### **PUBLIC HEARINGS**

**Case No. 12240 – Deneen Walton & Regina Fees** seek variances from the front yard setback for existing structures (Sections 115-25, 115-182, and 115-185 of the Sussex County Zoning Code). The property is a through lot located on the northeast corner of the intersection of Sycamore Dr. and Linden Dr. in the Angola by the Bay subdivision. 911 Address: 22871 Linden Dr., Lewes. Zoning District: AR-1. Tax Parcel: 234-11.16-41.00.

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one mail return. The Applicant is seeking variances 31.3 ft. from the required 40 ft. front yard setback along Angola Road for an existing shed on a through lot and a 1.9 ft. variance from the required 30 ft. front yard setback along Linden Drive for an existing dwelling. During the presentation, a variance of 7.5 ft. from the required 30 ft. front yard setback along Linden Drive for the deck and steps was added to the request.

Regina Fees and Deneen Walton were sworn in to give testimony. Ms. Fees submitted a letter of support from a neighbor.

Ms. Fees testified that the need for the variance was not created by the Applicant as she had relied on the company who built the shed to obtain the permits; that the contractor, Capital Structures, obtained the permits on their behalf; that the homeowners association approved the shed; that the house was built in 1987 and was later remodeled with no change to the footprint; that they purchased the Property in 2016; that the property is unique because it is a double lot with roads in front of three of the sides of the property; that the property is located near the gates to Angola by the Bay; that the house faces the intersection; that they consider Angola Road to be the rear yard; that other lots in the

neighborhood have common area between their lots and Angola Road but this lot does not; that there is a lot of foot traffic in the area; that the shed is visible to them and deters theft; that there is theft in the area; that the fence would have to be moved for the shed; that the shed is used to store tools and outdoor furniture; that the shed is modern and attractive; that the shed poses no traffic concerns; that there are other sheds in the neighborhood; that it could not be otherwise developed due to the three front yards; that it does not alter the essential character of the neighborhood; that it is the minimum variance to allow the structures to remain in the current locations; that there is no other place to locate the shed; and that it would be a financial hardship to move the shed.

Ms. Walton testified that there were no complaints from neighbors; and there is about fifteen feet from the property line to the edge of pavement of Angola Road.

Paul Reiger was sworn in to give testimony. He testified that he has no objection to this specific case but he questioned Mr. Mears' qualifications to sit on the Board of Adjustment.

The Board found that one (1) person appeared in support of and no one appeared in opposition to the Application.

Mr. Mears moved to approve Variance Application No. 12240 for the requested variances for the following reasons:

1. The Property is unique because the house is angled on the corner;
2. The exceptional practical difficulty was not created by the Applicants;
3. The shed was not placed on the lot by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. These are a minimum variance requests that will afford relief.

Motion by Mr. Mears, seconded by Ms. Magee, and carried unanimously that the **variances be granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Mears – yea, Ms. Magee – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 12241 – Beebe Medical Center, Inc.** seeks a variance from the maximum height requirement for a proposed structure (Sections 115-83.44 and 115-179 of the Sussex County Zoning Code). The property is located on the northeast side of Warrington Rd. approximately 110 ft. southeast of John J. Williams Hwy. (Rt. 24). 911 Address: N/A. Zoning District: I-1. Tax Parcel: 334-12.00-125.00.

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one mail return. The Applicant seeks a 35 ft. variance from the 60 ft. maximum height requirement for a proposed building.

Ms. Magee recused herself and left the chambers.

Robert Gibbs, Esquire, was present on behalf of the Applicant, presented the Application. Mike Riemann and Rick Schaffner were sworn in to give testimony. Mr. Gibbs submitted exhibits to the Board to review.

Mr. Gibbs stated that the Property is located near the Route 24 / Warrington Road intersection; that the variance request is to build a surgical center in an institutional zoned area (I-1); that the Property is in close proximity to two other Beebe facilities (Beebe Walk-In Center and Tunnel Cancer Center); the allowed height for a hospital is 60 ft. per Sussex County Code; and the Applicant is requesting a variance of 35 ft. to build a hospital with the maximum height of 95 ft.

Mr. Riemann affirmed the statements made by Mr. Gibbs as true and correct. Mr. Riemann, who is the engineer on the project, testified that the use of this property is in keeping with the neighborhood; that Beebe Healthcare is working with DelDOT to build a new road which will make accessing the new hospital more efficient; that the building is centrally located on the site to allow distance from residential neighbors; that there will be sufficient parking on the site; that the existing Lewes campus has growth problems; that floor ratios are tall in medical facilities with most floors being 16 to 18 feet tall; that the surgical center will have four floors which is less than other hospitals in the State; that residential neighbors are located along Route 24 and the Arbor Lyn community is located to the south; that he surveyed the height of the building with regard to the line of site from neighboring properties; that trees will block views of the building; that a large portion of the Property is landscaped with evergreens; that the nearest neighbor is over 170 feet away; that the proposed facility is shorter than other Delaware hospitals which are 115 to 135 feet tall; and that modern hospitals have requirements which drive design.

Mr. Schaffner testified that Beebe wants to provide services to the larger community; that they wish to increase the number of private rooms and to meet the growing demand for healthcare in the area; that the second floor will be used for a surgical center; that the third floor will be used for caesarian section procedures; that the fourth floor will be used for in patients with up to 24 beds; that the hospital is designed as a surgical center; that it will create space for the obstetrical program in the future; that healthcare and building codes have requirements that require the construction of a vertical hospital; that patient rooms will be approximately 400 square feet; that the best design of the facility is vertical; that corridors must be a minimum width of 8 ft.; that patient rooms must have a height of 14 ft. and operating rooms must have a height of 16 ft.; that greater height is needed for air exchanges, HVAC duct work, wiring, and sprinkler systems; that health care design is challenging; and that code also requires private patient rooms with access to an exterior window.

Mr. Gibbs stated that the property is unique as it is an industrial zoned area; that it cannot be otherwise developed because of the healthcare and building codes for a hospital; that it was not created by the Applicant as they did not create the healthcare and building code; that the facility is not overly

designed and is designed for function; that there are constraints on the Property due to DelDOT regulations with flow throughs and parking; that the facility needs to be this size to meet the population needs; that the variance will not alter the essential character of the neighborhood; that this facility will be similar to other hospitals; that there are two other medical buildings in close proximity; that additional landscaping is planned; that the neighborhood is a mixed-use neighborhood; that it is the minimum variance requested to allow the building to have maximum efficiency; and he asked for the Board's support of this request.

Mr. Riemann testified that the facility will have two access points and that a lighted signal is proposed nearby.

The Board found that no one appeared in support of or in opposition to the Application.

Mr. Mears moved to approve Variance Application No. 12241 for the requested variance for the following reasons:

1. The Property is unique because it does not currently allow for the height of the surgical center and its proximity to Route 1 and Route 24;
2. The Property cannot otherwise be developed because of the height code due to healthcare, surgical and building codes which require taller floors which drive the height of the building taller;
3. The exceptional practical difficulty was not created by the Applicant but by the growing medical need;
4. The location by the Tunnel Cancer Center and the Outpatient Center is ideal for this surgical center;
5. The variance will not alter the essential character of the neighborhood; and
6. It is a minimal request to allow Beebe to build this building to further serve the community.

Motion by Mr. Mears, seconded by Mr. Callaway, and carried unanimously that the **variance be granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Ms. Magee returned to Chambers.

**The Board took an eight (8) minute recess.**

**Case No. 12242 – Louis Capano, Jr.** seeks variances from the maximum fence height requirement and the side yard setback for existing structures (Sections 115-34, 115-181, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the east side of E. Lake Dr.

approximately 900 ft. south of Queen St. 911 Address: 21436 East Lake Dr., Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-20.10-1.08

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one mail return. The Applicant seeks a variance of 4.9 feet from the ten (10) feet side yard setback requirement on the north side for an existing generator, a variance of 5.1 feet from the ten (10) feet side yard setback requirement on the north side for an existing HVAC unit, a variance of 4.6 feet from the ten (10) feet side yard setback requirement on the north side for an existing HVAC unit, a variance of 4.8 feet from the ten (10) feet side yard setback requirement on the north side for an existing HVAC unit, a variance of 4.7 feet from the ten (10) feet side yard setback requirement on the north side for an existing HVAC unit, a variance of 4.8 feet from the ten (10) feet side yard setback requirement on the north side for an existing HVAC unit, a variance of 4.8 feet from the ten (10) feet side yard setback requirement on the north side for an existing HVAC unit, a variance of 4.9 feet from the ten (10) feet side yard setback requirement on the north side for an existing HVAC unit, a variance of 4.9 feet from the ten (10) feet side yard setback requirement on the north side for an existing HVAC unit, a variance of 1 foot from the maximum height requirement of 3.5 feet for a proposed wall / fence in the front yard, and a 0.3 foot variance from the ten (10) feet side yard setback requirement on the south side for an existing deck.

Jim Katelan was sworn in to give testimony and he submitted exhibits to the Board to review.

Mr. Katelan testified that the Applicant seeks variances for HVAC units and a generator on the north side of the house; that the Property is 75 feet wide; that the house is located on the setback lines; that the HVAC units can only go on the side yards; that the property is unique due to its narrowness and the home sits on the side yard setbacks; that the air-conditioning units could not be placed anywhere else on the property at the time of construction; that the units measure 3 feet by 3 feet and the manufacturer requires 30 inches of service clearance; that the units are placed as close to the house as possible; that the house was designed by an architect; that he signed for the building permit; that he was unaware that the HVAC units encroached; that the units cannot be placed in the rear yard due to the DNREC building line restrictions; that the deck only goes to the first floor and is open; that the house was built at an angle which is the only reason why the deck is in the setback area; that pool is located in the front yard; that the height variance is for the wall around the pool; that the wall is for privacy and the Applicant needs a fence of 4 feet tall for the pool; that pedestrians walk in the front yard; that the Applicant's son owns an adjacent property; and that the homeowners association approved the fence but it has not yet been built.

Ms. Cornwell advised the Board that a temporary certificate of compliance was issued and can be extended pending the Board's decision and that, since the deck is a first floor deck, no variance is needed for the deck.

Mr. Katelan testified that the lot is narrow; that the HVAC units and pool could not be placed

elsewhere on the lot; that the wall was designed for security, safety, and curb appeal; that the variances will not alter the character of the neighborhood as there is a fence and trees on that side of the property; that he did not realize the encroachments of the HVAC units until he received a violation notice from Planning & Zoning; that the front part of the Property goes to the lake and includes a road; and that the variances requested are the minimum variances necessary to afford relief.

Thomas Connelly was sworn in to give testimony in opposition to the Application. Mr. Connelly testified that the architect should have been aware of the setback rules; that the property is 75 ft. wide and could have been built within the rules of Sussex County; that there is no exceptional practical difficulty; that he lives in the neighborhood; that pools are not entitlement aspects of building; that one of his concerns is the danger of fire especially when homes are built without taking into consideration the setbacks it affects neighboring homes also; and that the variances impact his view and value of his property.

Mr. Katelan testified that a mistake was made; that the house is finished; that the house does not have a flat roof; and that the units cannot be placed in the rear yard due to the DNREC restrictions.

The Board found that no parties appeared in support of and one (1) party appeared in opposition to the Application.

The Board discussed the Application.

Ms. Magee moved to leave the hearing open for the limited purpose for the Applicant to provide building plans before the end of the year and to be present at the next meeting to answer questions the Board may have regarding said plans.

Motion by Ms. Magee, seconded by Mr. Callaway, and carried unanimously that the **record be left open for the limited purpose**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 12243 – Linda Major Dunbar** seeks variances from the front yard setback and side yard setback for proposed and existing structures (Sections 115-82 and 115-182 of the Sussex County Zoning Code). The property is located on the southwest side of Washington St. approximately 365 ft. southeast of Church St. Address: 37512 Washington St., Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.20-67.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one mail return. The Applicant seeks a variance of 9.3 feet from the thirty (30) feet front yard setback requirement for existing steps, a variance of 3.7 feet from the five (5) feet side yard setback requirement on the

southeast side for a proposed addition, a variance of 3.5 feet from the five (5) feet side yard setback requirement on the southeast side for an existing dwelling, and a variance of 3.2 feet from the five (5) feet side yard setback requirement on the southeast side for an existing dwelling.

Linda Dunbar, Paul Dunbar, Patty McDaniel, and Kelsey Hamilton were sworn in to testify about the Application.

Ms. Hamilton testified that the request is for a small addition to the Dunbar's cottage; that the property is unique because it is a very narrow lot measuring only 25 ft. wide; that the home was built in 1942; that the existing cottage is 18 ft. wide and cannot otherwise be developed without this variance; that the owners have a family member in a wheelchair; that this was not created by the Applicants as they did not build the house but want to modify it to accommodate their needs as they age; that the house will be one-story tall and needs to be one-story to allow for practical use; that a house measuring 15 feet wide is not practical; that the dwelling will consist of 1,080 square feet after the addition is constructed; that the variances will not alter the character of the neighborhood but will enhance the area and increase the resale value of other homes; that it was tough to find a single-wide manufactured home to fit on the lot; that it is a minimum variance requested to afford relief; and that the shed which sits in the setbacks will be moved into compliance with the Code.

Ms. Dunbar testified that the shed was already on the property when she purchased the property in 1983 and there are no complaints from the neighbors regarding the proposed addition.

Ms. McDaniel testified that the HVAC will be placed in the rear of the house and will comply with setbacks.

The Board found that no one appeared in support of or in opposition to the Application.

Mr. Mears moved to approve Variance Application No. 12243 for the requested variances for the following reasons:

1. The uniqueness of the property is the 25 ft. width;
2. This property cannot be developed without these variances;
3. The lot width was not created by the Applicants;
4. The upgrades will not alter the essential character of the community; and
5. The variances requested are the minimum variances necessary to afford relief.

Motion by Mr. Mears, seconded by Mr. Workman, and carried unanimously that the **variances be granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.



**Case No. 12244 – Ryan Fortini** seeks variances from the front yard setback, side yard setback, and maximum fence height requirement for existing structures (Sections 115-25, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on Fenwick Cir. and Zion Church Rd., approximately 736 ft. east of New Rd. Address: 37558 Fenwick Circle, Selbyville. Zoning District: AR-1. Tax Parcel: 533-12.00-216.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received one letter in support of and zero letters in opposition to the Application and zero mail returns. The Applicant seeks a 1.4 ft. variance from the required 5 ft. side yard setback on the northwest side for a shed; a 22.4 ft. variance from the required 40 ft. front yard setback along Zion Church Road for a shed; and a 4.4 ft. variance from the required 3.5 ft. maximum fence height for a fence.

Ryan Fortini and James Jones were sworn in to give testimony. Shannon Carmean Burton, Esquire presented the Application on behalf of the Applicant.

Mrs. Carmean Burton stated that exhibit booklets had been submitted to the Board; that there is one change to the variances requested; that the applicant seeks a 3.5 ft. variance for the fence not the original 4.4 ft. as listed on the application as the fence height is 7 ft.; that the Property is located in Fenwick West; that the Property is unique because it is a through lot and has two front yards for setback purposes; that the Applicant purchased the Property in February 2018 with the existing house and the Applicant intended to install a pool; that the need for the variance was not created by the Applicant because he was unaware that the property was considered to have two front yards; that the seller did not disclose this fact to the Applicant; that he retained Mr. Jones to install the pool and fence; that the fence is in line with a neighbor's fence; that Mr. Fortini relied on his contractor to place the shed; that vehicles travel along Zion Church Road at 50 miles per hour; that the exceptional practical difficulty is due to the uniqueness of the Property; that the Applicant relied on professionals; that the Property cannot otherwise be developed as the shed and fence are already in place; that, due to the traffic on Zion Church Road the Applicant requires a fence to ensure the safety of his dogs; that the fence will also provide him with privacy and is required for the pool; that the variances are necessary to enable reasonable use of the Property; that the shed is barely visible as it is located within the fence line; that the variances will not alter the essential character of the neighborhood or impair uses of neighboring properties or be detrimental to the public welfare; that the fence is a 7 feet tall vinyl fence; that the fence is consistent with the neighborhood and does not inhibit traffic visibility; and that the variances requested are the minimum variances that will afford relief.

Mr. Fortini affirmed the statements made by Mrs. Carmean Burton as true and correct.

Mr. Fortini testified that he was unaware of the issue of having two front yards and asked for the Board's support for his Application; and that a neighbor also has a pool and fence.

Mr. Jones testified that he signed for the building permit but was unaware that the property had two front setbacks; that the fence was installed in line with neighboring fences; that the fence

does not affect traffic sight lines; and that there is 8-10 feet from the edge of paving of Zion Church Road and the property line.

Mrs. Burton stated that there is no vehicular access to Zion Church Road.

The Board found that no one appeared in support of or in opposition to the Application.

Ms. Magee moved to approve Variance Application No. 12244 for the requested variances, as the Applicant has met the standards for granting a variance and the variances requested are the minimum variances to afford relief.

Motion by Ms. Magee, seconded by Mr. Callaway, and carried unanimously that the **variances be granted for the reasons stated.** Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 12245 – David & Dana Hamilton** seek a variance from the side yard setback for a proposed structure (Section 115-185 of the Sussex County Zoning Code). The property is located on the northwest corner of Dodd Ave. and Salisbury St. in the Seabreeze subdivision. Address: 207 Salisbury St., Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-20.13-167.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one mail return. The Applicant seeks a 4 ft. variance from the required 10 ft. side yard setback on the east side for a proposed pool.

Dana Hamilton was sworn in to give testimony about the Application. Blake Carey, Esquire presented the Application on behalf of the Applicant.

Mr. Carey stated that the property, which is located in Seabreeze, is unique because it is a smaller sized corner lot; that the corner setback requirement pushes the house east; that there is no place to place the pool without a variance; that the pool has not yet been constructed; that the property cannot otherwise be developed because placing the pool in the rear yard would also require a variance; that the placement of the pool is also limited by where the oil tank and HVAC unit are located; that the dwelling was on the property when the Applicants purchased the lot; that door access was also an issue in locating the pool; that the Applicants did not create the small lot size but bought the property as it is currently; that the variance will not alter the essential character of the neighborhood as there are a number of pools in the area; that a similar pool was approved in 2017 in Seabreeze; that there is no issue with the neighbor to the east; that the pool will not be visible from the road; and that the 4ft. requested is the minimum variance to afford relief.

Ms. Hamilton affirmed the statements made by Mr. Carey as true and correct.

Mr. Carey stated that the pool is small and will not impact neighbors; and that the house is oddly oriented on the lot.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mears moved to approve Variance Application No. 12245 for the requested variances for the following reasons:

1. The corner lot combined with the placement of the house on an angle makes this property unique;
2. The pool cannot be developed without this variance;
3. The location of the house on the corner lot was not created by the applicant;
4. The variance will not alter the character of the development because there are other pools throughout the community; and
5. It is a minimal variance request especially as the applicant is making the pool narrow.

Motion by Mr. Mears, seconded by Mr. Callaway, and carried unanimously that the **variance be granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 12246 – Joseph Sterner** seeks a special use exception to operate a bed and breakfast (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the southwest corner of Old Landing Rd. and Warrington Rd. 911 Address: 35060 Warrington Rd., Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-12.00-121.01

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail returns. The Applicant seeks a special use exception to operate a six-bedroom bed and breakfast, he currently has a special use exception to operate a five-bedroom bed and breakfast following a hearing on September 23, 2013.

Joseph Sterner was sworn in to give testimony. Mr. Sterner testified that, in 2000, a special use exception was granted for a four-bedroom bed & breakfast inn on the Property; that, in 2013, a special use exception was granted for a five-bedroom bed & breakfast inn on the Property; that he now seeks a special use exception to allow for a six-bedroom bed & breakfast inn, which is the maximum allowable under the Code; that four bedrooms are located in the main house and one bedroom is in the cottage; that he intends to renovate the old barn on the property to create a common space for his guests and an additional bedroom; that the first level will be common area and the second

level will have a loft suite with a deck; that this will allow the maximum number of bedrooms for a bed and breakfast as allowed by County Code; that it will not substantially adversely affect the uses of neighboring or adjacent properties as the new building will replace the dilapidated barn; that it is only one additional room so therefore will not affect traffic; that there will be no cooking facilities in the rooms; that there are twelve parking spaces; and that there is adequate parking for guests.

The Board found that no parties appeared in support of or in opposition to the Application.

Ms. Magee moved to approve Application No. 12246 for the special use exception as this request will not substantially affect adversely the uses of adjacent or neighboring properties

Motion by Ms. Magee, seconded by Mr. Mears, and carried unanimously that the **special use exception be granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 12247 – Bo Bilobran & Michael Moutzalias** seek a special use exception to allow for a temporary removable vendor stand (Sections 115-72 and 115-210 of the Sussex County Zoning Code). The property is a through lot fronting on Coastal Hwy. (Rt.1) and Beach Plum Rd. located on the southwest corner of Bayberry Rd. & Coastal Hwy. (Rt. 1). 911 Address: 33210 Coastal Hwy., Bethany Beach. Zoning District: B-1. Tax Parcel: 134-17.16-47.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received nine letters in supports of and zero letters in opposition to the Application and one mail return. The Applicant seeks a renewal of special use exception for an additional five years for a temporary removable vendor stand.

Bo Bilobran was sworn in to give testimony. Mr. Bilobran submitted four additional letters of support. Mr. Bilobran testified that this is the third time in front of the Board for a special use exception to allow tents on the property from June to September; that the produce stand has been in operation for 6 summers from June 15 to September 15; that he has been at the same location for approximately six years; that he is requesting the special use exception for tents and hay wagons; that it does not adversely affect the neighborhood; that there have been no complaints from the Middlesex Community; that he has been responsive to neighbors; that there will be no increase in the number of tents; and that he will put a new shed on the site but has to receive approval from the homeowners association.

Mr. Sharp explained the history of the prior applications to the Board.

Mr. Bilobran testified that the tents are taken down when storms come; that Sea Colony is located nearby; that most of the customers walk or ride bikes to the produce stand; and that there have

been no parking issues.

The Board found that no parties appeared in support of or in opposition to the Application.

Ms. Magee moved to approve Application No. 12247 for the special use exception for five years as this request will not substantially affect adversely the uses of adjacent or neighboring properties

Motion by Ms. Magee, seconded by Mr. Callaway, and carried unanimously that the **special use exception be granted for a period of five (5) years for the reasons stated.** Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Meeting was adjourned at 9:50 p.m.**